

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

RUBIN GONZALVO,

Plaintiff,

v.

**9:11-CV-0909
(NAM/DEP)**

THE STATE OF NEW YORK,

Defendant.

APPEARANCES:

OF COUNSEL:

RUBEN GONZALVO
97-A-3050
Woodburne Correctional Facility
99 Prison Road
P.O. Box 1000
Woodburne, NY 12788-1000
Plaintiff, *pro se*

HON. ERIC T. SCHNEIDERMAN
Office of the Attorney General
The Capitol
Albany, NY 12224-0341
Counsel for Defendant

CATHY SHEEHAN, ESQ
Assistant Attorney General

NORMAN A. MORDUE, SENIOR U. S. DISTRICT JUDGE

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge David E. Peebles, duly filed on the 10th day of July 2013. Following fourteen (14) days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-

Recommendation, and no objections submitted thereto, it is

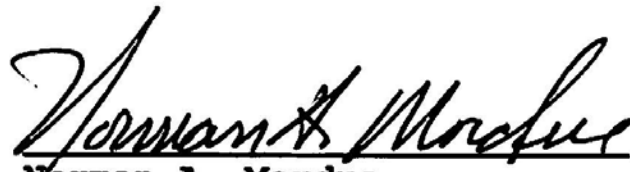
ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. The defendant's motion to dismiss for failure to state a claim (Dkt. No. 29) is denied.
3. The Clerk of the Court shall serve a copy of this Order upon all parties and the

Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Dated: August 2, 2013
Syracuse, New York


Norman A. Mordue
Senior U.S. District Judge